

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TARUS FLUITT,

Plaintiff,

v.

22-CV-6507-FPG
ORDER

PSB DEPUTY JOHN DOE, DEPUTY JOHN
DOE 1, DEPUTY JOHN DOE 2, AND
CORPORAL JOHN DOE 3,

Defendants.

Pursuant to *Valentin v. Dinkins*, 121 F.3d 72, 75 (2d Cir. 1997), the Court has assisted *pro se* Plaintiff Tarus Fluitt by directing the Monroe County Attorney to provide names and service addresses for the John Doe Defendants. ECF No. 11 at 14.

The County Attorney's response indicates that there were two Deputies who were assigned to the PSB on the date and time alleged in the amended complaint, *see* ECF No. 8 at 6, either of whom could be PSB Deputy John Doe, to wit: Thomas Baird or Mark Hoffman. ECF No. 14 at 1. And that there were three Deputies assigned to the Second Floor where Plaintiff was moved to as alleged in the amended complaint, *see* ECF No. 8 at 6-9, who could be Deputy John Doe 1 and Deputy John Doe 2, they are: Brandon Montesano, David Schmidt, and Matthew Pheilshifter. ECF No. 14 at 2.

"The 'general principle of tort law that a tort victim who cannot identify the tortfeasor cannot bring suit' has been relaxed in actions brought by *pro se* litigants, but it has not been eliminated." *Dolce v. Suffolk Cnty.*, No. 12-CV-0108 (JFB) (WDW), 2014 WL 655371, at *6 (E.D.N.Y. Feb. 20, 2014) (quoting *Valentin*, 121 F.3d at 75), *aff'd*, 599 F. App'x 15 (2d Cir. 2015).

Accordingly, Plaintiff is ORDERED that within **30 days** of the date of this order, he shall file with the Court a response identifying PSB Deputy John Doe, Deputy John Doe 1, and Deputy John Doe 2 based on the information provided by the Monroe County Attorney. If Plaintiff is unable to identify these Defendants with the information provided, his response shall include any information, such as physical descriptions, that might assist in identifying these Doe Defendants. The Clerk of Court is directed to send to Plaintiff with this order a copy of the Declaration filed by the Monroe County Attorney (ECF No. 14).

SO ORDERED.

Dated: February 23, 2024
Rochester, New York



HON. FRANK P. GERACI, JR.
United States District Judge
Western District of New York